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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,891	03/15/2001	Hideo Ando	204424US-2S	4189

22850 7590 03/11/2004

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EXAMINER

NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
2615	15

DATE MAILED: 03/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,891

Applicant(s)

ANDO ET AL.

Examiner

HUY T NGUYEN

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/29/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27 and 37-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 27 and 39 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 27 and 39 are directed to data stored on recording medium. Since the data does not provide any functional relationship to the medium by control the medium to access the data on the medium or impart to any structural hardware and software component to provide certain function processed by a computer the data on the information recording medium does not make it statutory. See MPEP 2100.

Applicant argues that "MPEP § 2106 discusses statutory subject matter in relation to data structures of a computer readable medium. Particularly, MPEIP § 2106 provides claimed computer-readable medium encoded with a data structure defines structural and **functional interrelationships between the data structure** and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Thus, based on the language of this section, Claims 27 and 39 are statutory, as these claims define a functionality that is realized based on the interrelationship of the structure to the medium and recited hardware components." applicants argument is noted. However, it submitted that in claims 27 and 39 there is no recitation for any function of the stored data including management information or transport stream in the body of claims. It is noted that in

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the body of claims 27 and 39 merely recited the representation of packet data without functional structure.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 27 and 37-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Ando et al (US 20010014201A1)

The applied reference has common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 27 and 37-41 , Ando discloses an apparatus (Figs, 24, pages 13 and 15) for recording and reproducing information on and from a recording medium , the recording medium information comprises the stream object, formed from the bitstream information, including plurality of MPEG transport packets, at least one first data unit having transport packets, and at least one second data unit having the at least one first data unit, the at least; one second data unit including a plurality of pairs of the transport packets and time information relating to the at least paired transport packets. Ando further teaches management information relating to the transport packets.

3. Claims 27 and 37-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hiroshima et al (5,801,781) .

Regarding claims 27 and 37-38 and 42 , Hiroshima discloses an apparatus (Figs, 5-7, column 6) for recording and reproducing information on and from a recording medium , the recording medium information comprises the stream object, formed from the bitstream information, including plurality of MPEG transport packets, at least one first data unit having transport packets, and at least one second data unit having the at least one first data unit, the at least; one second data unit including a plurality of pairs of the transport packets and time information relating to the at least paired transport packets. Further Hiroshima further teaches management information (pack information).

Applicant argues that Hiroshima does not teaches a paired packets and time information . In response the examiner disagrees . It is noted that paired transport packet and time information is well known in the art and as taught by Hiroshima . Fig 6 . Hiroshima teaches a packet stream that comprises a plurality of data packets data (payload data packets), each data packet is paired with time information 124 and 125 . It is clear that Hiroshima teaches second unit comprises a plurality of pairs of transport packet and time information .

4. Claims 27,37-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al (6,740,135) .

Regarding claims 27 and 37-41 , Hiroshima discloses an apparatus (Figs. 1, 3-5), column 3, lines 15-68) for recording and reproducing information on and from a recording medium , the recording medium information comprises the stream object, formed from the bitstream information, including plurality of MPEG transport packets, at least one first data unit having transport packets, and at least one second data unit having the at least one first data unit, the at least; one second data unit including a plurality of pairs of the transport packets and time information relating to the at least paired transport packets (column 3, lines 15-30). Further Kim teaches reproducing means for reproducing the recorded data from the medium (Fig. 5)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miwa in view of Yanagihara et al (6,211,800).

Regarding claims 27 and 37-38 and 42, Miwa discloses an apparatus (Figs, 6,7 and 14) for recording and reproducing information on and from a recording medium, the recording medium information comprises the stream object, formed from the bitstream information, including plurality of MPEG transport packets, at least one first data unit having transport packets, and at least one second data unit having the at least one first data unit, the at least one second data unit including a plurality of pairs of the transport packets and time information relating to the at least paired transport packets.

Regarding claims 27 and 39-41, Miwa teaches a method of recording a stream data of objects on a recording medium (Figs. 6,7 and 14), the data of the objects are formed by first data units, second data units and third data units. The second data unit has one or more the first data units, the third data unit has one or more the second data units

Miwa fails to specifically teach that the bit stream is a transport stream. However it is noted that forming a transport stream from a MPEG stream is well known in the art as taught by Yanagihara. Therefore, it would have been obvious to one of ordinary skill in the art to modify Miwa with Yanagihara by using the teaching as taught by Yanagihara for forming the stream of Miwa into a transport stream.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T NGUYEN whose telephone number is (703) 305-4775. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY T. NGUYEN
PRIMARY EXAMINER